IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7672 OF 2003

Shri Ramakant Mukund Patil... ... Petitioner.

Versus

Shri Umakant Mukund Patil.... ... Respondent.

Mr. Ambar Joshi i/by Mr. Shekhar S. Bhise
for the Petitioner.

None for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : JANUARY 18, 2005.

P.C.:

The petitioner challenges the order of the Divisional Commissioner, Konkan Division, allowing the respondent's R.T.S. Appeal No. 90 of 1999 by the judgment and order dated 21st October, 2001.

2. According to the petitioner, the mutation entry No. 248 dated 3rd May, 1969 in respect of the land in question bearing Survey No.36 was transferred in his name. The Sub-Divisional Officer dismissed this contention. The petitioner, therefore, filed an appeal bearing R.T.S. Appeal No. 11 of 1998 before

the Resident Deputy Collector, Thane. The Resident Deputy Collector allowed the same by the judgment and order dated 16th March,1999.

3. Aggrieved thereby, the respondent filed an appeal bearing R.T.S. Appeal No. 90 of 1999 in the Court of the Divisional Commissioner, Konkan Division. The learned Divisional Commissioner has allowed respondent’s appeal against which the present petition is filed.

4. According to the learned Counsel for the petitioner, the appellate court has committed an error in ignoring the fact that the petitioner has all along been in physical possession of the said land and cultivating the same and that the petitioner being a Government servant has fraudulently got his own name entered into the revenue record of the said land. The respondent is the petitioner’s real brother.

5. Having regard to the nature of the dispute and having regard to the settled position in law that mutation entries do not affect title in land, I see no reason to interfere with the impugned order. The petitioner is entitled to assert his right in an appropriate court in accordance with law. The

mutation entries, which are meant only for recovery of revenue, i.e. for a fiscal purposes, will have to give way to the finding of the civil court. There is no merit in this writ petition, which is hereby dismissed.

Sd/-

S. A. BOBDE, J.